
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

CARL W. BURT,

Plaintiff,

v.

MEDQUEST PHARMACY,

Defendant.

REPORT AND RECOMMENDATION

Case No. 1:13-cv-162-RJS-EJF

District Judge Robert J. Shelby

Magistrate Judge Evelyn J. Furse

On January 28, 2015, Defendant MedQuest Pharmacy (“MedQuest”) moved for summary judgment on Plaintiff Carl W. Burt’s Complaint.¹ (ECF No. 31.) Mr. Burt did not respond to Medquest’s Motion for Summary Judgment (“Motion”) within the time provided by the rules. MedQuest then filed a Request to Submit for Decision on March 6, 2015. (ECF No. 35.) On April 1, 2015, thirty days after the deadline to file a response to Medquest’s Motion, Mr. Burt filed a Motion for Extension of Time to File a Response to MedQuest’s Motion requesting until April 17, 2015 to file a response. (ECF No. 36.) Mr. Burt did not provide good cause for his failure to timely respond to Medquest’s Motion nor did he establish excusable neglect as required by Federal Rule of Civil Procedure 6(b)(1)(B). (*See id.*) The undersigned denied Mr. Burt’s Motion for Extension of Time to File a Response to MedQuest’s Motion on April 2, 2015. (ECF No. 38.)

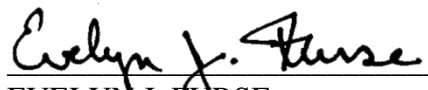
Because Mr. Burt failed to timely respond to MedQuest’s Motion and for the reasons stated in MedQuest’s Motion, the undersigned RECOMMENDS the Court grant MedQuest’s Motion.

¹ On May 28, 2014, Judge Robert J. Shelby referred this case to the undersigned Magistrate Judge under 28 U.S.C. § 636(b)(1)(B). (ECF No. 19.)

The Court will send copies of this Report and Recommendation to all parties, who are hereby notified of their right to object. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2). The parties must file any objection to this Report and Recommendation within fourteen (14) days of service thereof. *Id.* Failure to object may constitute waiver of objections upon subsequent review.

Dated this 2nd of April, 2015.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Evelyn J. Forse", is written over a horizontal line.

EVELYN J. FORSE

United States Magistrate Judge